IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No.73 of 2003
Date of Decision 01.09.2010

Salmu @ Salmuddin

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM:- HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr.Ram Bilas Gupta, Advocate, as Amicus Curiae,
for the petitioner.

Mr.J.S.Rattu, Deputy Advocate General, Haryana,
for the respondent-State.

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A.N.JINDAL, J:

This revision petition is directed against the judgment dated 16.12.2002, passed by Additional Sessions Judge, Gurgaon, dismissing the appeal of the petitioner-accused (herein referred as 'the accused') against the judgment dated 31.03.2000, passed by Sub Divisional Judicial Magistrate, Nuh, convicting and sentencing him to undergo rigorous imprisonment for 15 months under Section 8 of the Punjab Prohibition Cow Slaughter Act (for brevity 'the Act'). However, sentence was modified to one year in appeal.

In nutshell, the facts as unfolded by the prosecution are that on 07.02.1997, Head Constable Rajpal Singh alongwith other police officials was present at Dihana turning at Malab in connection with patrolling where he received a secret information that the accused was selling beef after slaughtering the cows. Finding the information to be liable, a raid was conducted in the land adjacent to the house of the accused where he found raising the voice that people could purchase beef @ Rs.5/- per kg. The accused was apprehended and 20kgs of beef, one weighing scale, one stone

weight of 1 kg, one cow hide of freshly slaughtered cow and 22 cow hides of earlier slaughtered cows were taken into possession vide recovery memo Ex.PW2/A. Ruqa Ex.PW2/B was sent to the police station on the basis of which formal FIR was recorded. Case was investigated and the report under Section 173 Cr.P.C. was submitted against him.

Finding a prima facie case against the accused, he was charged for the offence under Section 8 of the Act for contravening the provisions of Section 3 & 5 of the Act to which he pleaded not guilty and opted to contest.

The prosecution, in order to substantiate the charges, examined Ravinder Kumar, Veterinary Surgeon (PW1), Head Constable Rajpal Singh (PW2), Constable Sher Singh (PW3) and Sub Inspector Kailash Chand (PW4). The prosecution also produced documents i.e. written intimation (ruqa) Ex.PW2/B, site plan Ex.PW2/C, recovery memo Ex.PW/A and report of veterinary surgeon Ex.PW1/A.

When examined under Section 313 Cr.P.C., the accused denied all the allegations and pleaded his innocence. However, no evidence was led in defence.

The trial ended in conviction. However, in appeal, the sentence was reduced to one year.

Arguments heard. Record perused.

Dr.Ravinder Kumar (PW1), who after examining the beef as well as the hides and testing the flesh, had submitted report Ex.PW1/A. Head Constable Raj Pal (PW2) and Constable Sher Singh (PW3) are the witnesses to the recovery. Sub Inspector Kailash Chand (PW4) had prepared the inquest report. The report made by Dr.Ravinder Kumar

(PW1), after testing the flesh, reads as under:-

> "*Meat presented for examination on 07.02.1997 at CVH, Nuh at 8:00 a.m. is that of cow. Skin is also that of cow.*"

Both the witnesses have categorically testified about the time and the place of the occurrence. Both of them have withstood the test of cross-examination. The argument that no independent witness was joined at the time of testing the recovery memo is without any merit. It has come in evidence that the efforts to join the independent witness were made but none agreed to join. It is not a case of house search and if the Investigating Officer would have wasted the time in searching of independent witness anymore then the very purpose effecting the raid would have been frustrated.

As regards the production of the case property before the Magistrate at the time of trial, the argument does not carry any weight as it was a perishable article and the same was disposed of according to law. It may further be observed that both the Courts below have returned the findings of fact regarding the guilt of the accused and no such illegality much less irregularity, arbitrariness or perversity has been shown which may result into miscarriage of justice or cause serious prejudice to the accused. This Court does not deem it appropriate to delve deep into the evidence to re-appreciate the same as it is impermissible at the revisional stage.

Resultantly, this petition, being devoid of any merit, is dismissed.

(A.N.Jindal)
Judge

01.09.2010
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